

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	Case No. 4:05cr136
	§	(Judge Brown)
LUCAS MICHAEL SMITH	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 7, 2006 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Maureen Smith.

On April 9, 2003, the Defendant was sentenced by the Honorable Frank H. Seay of the Eastern District of Oklahoma to 18 months imprisonment followed by a 3 year term of supervised release for the offense of Conspiracy to Manufacture Counterfeit Currency. On April 21, 2004, Defendant completed his period of imprisonment and began service of his supervised term. Jurisdiction was transferred to the Eastern District of Texas on June 27, 2005.

On June 1, 2006, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following conditions: (1) Defendant shall not commit another federal,

state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician; (4) Defendant shall refrain from any unlawful use of a controlled substance; (5) Defendant shall make restitution in the amount of \$4,120.54 through monthly installments of not less than \$75.00, beginning 60 days following Defendant's release from the bureau of prisons; (6) Defendant shall submit to urinalysis testing as directed by the probation office; and (7) Defendant shall participate in a program approved by the United States Probation Office for treatment of narcotics addiction, drug dependency, or alcohol addiction, which will include testing to determine if the defendant has reverted to the use of drugs or alcohol; and if the Probation Officer determines that Defendant needs a residential drug/alcohol treatment program, Defendant shall participate in such treatment as directed by the Probation Officer and remain in the treatment facility until discharged.

The petition alleges that the Defendant committed the following acts: (1) On October 17, 2005, Defendant pleaded guilty in Tarrant County Criminal District Court to possessing methamphetamine; (2) On February 8, 2005 and March 7, 2005, Defendant submitted urine specimens that tested positive for methamphetamine; (3) Defendant failed to submit payments towards restitution for the months of March, 2005 and April, 2005; (4) Defendant failed to submit to urine

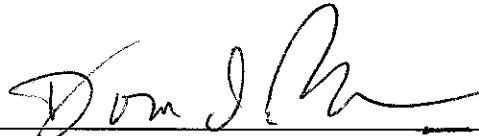
testing as instructed on March 12, 2005, March 15, 2005, March 21, 2005, and March 22, 2005; and (5) On April 1, 2005, Defendant was unsuccessfully discharged from drug aftercare at Addiction Recovery Center in Lewisville, Texas for failing to attend treatment as directed in March, 2005.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the above listed violations. At the hearing, the Court recommended that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, to be served consecutively to any other sentence, with twenty-six (26) months of supervised release to follow. The Court further recommends that Defendant be ordered to pay restitution in the amount of \$3,445.54, due immediately, payable by cashier's check or money order, to the United States District Court and forwarded to the United States District Clerk's Office, P.O. Box 570, Tyler, Texas 75710.

Signed this 9 day of August, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE